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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/798,148

03/10/2004

Richard J. Duval

DUVA-001

5535

7590

07/26/2004

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EXAMINER

KAUFFMAN, BRIAN K

ART UNIT

PAPER NUMBER

3765

DATE MAILED: 07/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

CS

Office Action Summary	Application No. 10/798,148	Applicant(s) DUVAL, RICHARD J.	
	Examiner Brian K Kauffman	Art Unit 3765	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 March 2004.
 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) ☐ Claim(s) _____ is/are allowed.
 6) ☒ Claim(s) 1-19 is/are rejected.
 7) ☐ Claim(s) _____ is/are objected to.
 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
 * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>3/10/2004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-11, 15, and 18-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Porter et. al. (5,908,004). In regard to claim 1, Porter et. al. discloses an optical stitch regulator system comprising : a sewing machine (10) ; and at least one optical sensor (40a and 40b) attached to the sewing machine for measuring a movement of a piece of fabric relative to the needle of the sewing machine, wherein the optical sensor is in communication with the sewing machine regarding the movement (col. 5, lines 61-67 and col. 6, lines 1-9).

In regard to claim 18, Porter et. al. discloses a process of operating an optical stitch regulator for a sewing machine, the process comprising: sensing a movement of fabric relative to a needle of a sewing machine with at least one optical sensor; generating a movement data representing the movement; and adjusting the motor speed within the sewing machine based upon the movement data (col. 5, lines 61-67 and col. 6, lines 1-9).

In regard to claim 19, Porter et. al. discloses an optical stitch regulator system, comprising: a sewing machine carriage (10); and at least one optical sensor (40 a and 40 b) attached to the sewing machine carriage for measuring the movement of a piece

of fabric relative to the needle of a sewing machine, wherein the optical sensor is capable of communicating with the sewing machine regarding the movement (col. 5, lines 61-67 and col. 6, lines 1-9).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 12-14 and 16-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Porter et. al. (5,908,004) in view of Pordzik (5,215,020). In regard to claims 12, 13, and 14, Porter et. al. does not disclose an optical sensor directed downwardly, the support member being attached to the upper portion of the sewing machine. Pordzik does disclose an optical sensor directed downwardly (4) attached to the upper portion of the sewing machine (fig. 1). Directing the optical sensor downward and attached to the upper portion of the sewing machine allows for an efficient means to detect the work piece being sewn. It would have been obvious to one having ordinary

skill in the art at the time the invention was made to include an optical sensor directed downwardly and attached to the upper portion of the sewing machine as shown by Pordzik in order to efficiently detect the work piece being sewn.

In regard to claim 16, Porter et. al. does not disclose that the light source should be a light emitting diode. Pordzik does disclose that the light source should be a light emitting diode (col. 2, lines 34-35). The light emitting diode allows the sensor to detect the work piece being sewn. It would have been obvious to one having ordinary skill in the art at the time the invention was made to require the light source to be a light emitting diode as shown by Pordzik in order to allow the sensor to detect the work piece being sewn.

In regard to claim 17, Porter et. al. does not disclose that the light sensor be positioned within the sewing platform of the sewing machine and extend above the upper surface of the sewing platform. Pordzik does disclose that the light sensor be positioned within the sewing platform the sewing machine and extend above the upper surface of the sewing platform (22). The layout of the sensor allows the sensor to detect the work piece. It would have been obvious to one having ordinary skill in the art at the time the invention was made to require the light sensor to be positioned within the sewing platform of the sewing machine and extend above the upper surface of the sewing platform as shown by Pordzik in order to detect the work piece.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian K Kauffman whose telephone number is (703)605-4933. The examiner can normally be reached on M-F every week.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Calvert can be reached on (703)305-1025. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

BKK

A handwritten signature in black ink, reading "Peter Nerbun". The signature is fluid and cursive, with a large initial "P" and a stylized "N".

Peter Nerbun
Primary Examiner